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ABSTRACT

This document contains the teacher's outline for a unit of study designed to be incorporated into an undergraduate social work survey course on social welfare policy. The aim of this unit is to explore aspects of social policy relating to child welfare by focusing on policy development, legislative framework, and the application of principles to practice. Because this module was developed for use at the University of Southern Maine, some material pertains specifically to Maine's child welfare law and may require modification for use in other states. An overview of the course is provided, five learning objectives are listed, and the course outline is presented. Materials in this outline examine child welfare from several perspectives. The history of child welfare services in this country is reviewed, key issues faced by decision-makers regarding the welfare of children are identified, and recent federal and state legislation affecting the delivery of child welfare services is discussed. The unit then focuses on a specific example of social welfare policy-making by examining recent changes in Maine's foster care program. The course outline is followed by six questions for discussion and a list of suggested readings. (NRB)

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CHILD WELFARE POLICY: A Teaching Module

Teacher's Outline

Developed By

The Department of Social Welfare
University of Southern Maine

In Cooperation With

The Human Services Development Institute
Center for Research and Advanced Study
University of Southern Maine
A Unit of the University of Maine

Portland, Maine

June, 1982

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Portland, Maine
June, 1987

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PREFACE: HOW TO USE THIS MODULE

This module is a teaching tool designed for use with undergraduate social work students. It is intended to be incorporated into a survey course on social welfare policy. The aim of this unit is to explore one aspect of social policy--that relating to the welfare of children--by focusing on policy development, legislative framework and the application of principles to practice.

The module which follows was developed for inclusion in the University of Southern Maine's course, Social Welfare Problems and Policy. This course is one component of the Department of Social Welfare's curriculum for undergraduates. Much of the material which appears here is applicable, as written, to presentation in a variety of other settings. However, some professors may choose to replace those sections which deal specifically with Maine's child welfare law and program with parallel information from their own state.

Child Welfare Policy: A Teaching Module is presented in two formats: a student's outline, which highlights major topics and concepts, and a teacher's outline, which offers a more detailed look at the subject matter. In addition to the substantive material, each module contains a brief overview, learning objectives and some suggested topics for discussion.

References cited in this module include both nationally-published works, available through any major library, and some works which pertain specifically to Maine. For the latter group, copies may be obtained by writing:

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PART I: INTRODUCTION

Overview

In the field of social welfare, few areas stimulate as emotional-laden a response from professional and lay people alike as policy concerning child welfare. While child welfare services include the protection of vulnerable children, they bring the realm of government into the lives of families. Discussing child welfare policy means juggling one's own views of childhood and parenthood with moral and/or political convictions concerning the role of government and the rights of individuals.

This module examines child welfare policy from several perspectives. First, it looks briefly at the history of child welfare services in this country. Second, it identifies key issues faced by those who make decisions regarding the welfare of children. Third, it examines recent federal and state legislation affecting the delivery of child welfare services; and, finally, it focuses on a specific example of social welfare policy-making: recent changes in Maine's foster care program through the combined efforts of public officials and private citizens.

Learning Objectives

This module will enable the student:

- to define child welfare and child welfare services;
- to understand the historical antecedents of today's child welfare system;
- to identify major child welfare policy issues;
- to identify key federal and state legislation affecting child welfare; and
- to explore the stages of social welfare policy-making, using Maine's foster care program as a case study.

PART II: OUTLINE

I. What do we mean by "child welfare"?

A. Child Welfare denotes a broad range of activities designed to benefit children by promoting their physical, social, emotional, and material well-being--child health, education, and recreation, for example.

B. Child Welfare Services delineates a particular segment of professional activity. It is a field of practice which is concerned with the well-being of children whose circumstances--either individually, within their families or in their communities--may jeopardize their normal development.

C. In the last two centuries, the goal and nature of child welfare services have changed dramatically--from orphanages to nurturing "parent."

1. Prior to the 19th century, orphanages (generally church sponsored) provided the only organized services for children without adequately functioning families.

2. During the 19th century, the concept of foster family care developed. The goal was to provide children with a substitute family to raise them to maturity.

3. During the 20th century, the idea of substitute care was refined and expanded. A system of specialized resources (including foster families, group homes, residential treatment centers) developed.

4. In recent years, there has been a growing awareness that substitute care does not necessarily provide the nurturance which a child needs to develop adequately. The new goal of child welfare services is to ensure each child--to whatever extent possible--a stable and continuous relationship with a nurturing parent.

D. Federal legislation has contributed to the current view of child welfare services.

1. The Social Security Act of 1935 defined child welfare services as "services for the protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent."

2. The 1962 Amendments to the Social Security Act broadened this definition to include social services which supplement or substitute for parental care and supervision. This legislation introduced two major concepts: prevention of abuse, neglect, exploitation, and delinquency of children; and protection of children through strengthening of their own families, when possible, and placement away from home, if necessary.

3. The Adoption Assistance and Child Welfare Act of 1980 expanded child welfare to include: promotion of the welfare of all children (including handicapped, homeless, dependent and/or neglected children), prevention of unnecessary separation of children from families, restoration of children who have been removed by provision of services, placement of children in suitable adoptive homes when restoration is impossible, and assurance of adequate care for children who cannot be returned home or adopted.

E. In Maine, the Department of Human Services is the public agency responsible for child welfare services. It provides (or contracts with other agencies to provide) a continuum of child welfare services: supportive, supplementary, substitute.

1. Supportive services are those deisgned to preserve and strengthen the functioning of the family. Examples are counseling and parent education.

2. Supplementary services are those which help the parent to fulfill a part of his or her role. Homemakers and day care services are examples.

3. Substitute care services are those which replace the biological family with alternative caregivers. Options range from short-term emergency foster care to institutional care to adoption.

II. Major policy issues and their implications for practice

A. Protecting children from abuse or neglect creates a tension between preserving the integrity of the family and assuring the safety of the child: When is government intervention necessary?

1. Lack of supportive and supplementary services may lead to an overuse of substitute care services. Often it appears to be easier, quicker and cheaper to remove a child than to rehabilitate a family.

2. Cultural differences exist around the definition of abuse and neglect.

B. Removing children from home resolves some problems while creating others: Can the State be a parent?

1. Disruption of relationships with familiar adults--even abusing adults--is harmful to the child.

2. Foster care, which by definition is meant to be temporary care, denies the child the security of a permanent parent.

3. Children can "get lost" in the foster care system. They stay

in care too long, drifting from home to home. (In Maine, 25% have been in care for 10 years or more; 37% have had 4 or more homes.)

4. Lack of clear cut decision-making turns temporary solutions into extended care. Many children lack clear-cut plans for achieving a permanent placement--either by returning to their own families or by being freed for adoption.

5. Goal-oriented case planning and effective periodic review of children's cases don't occur regularly; overworked social workers tend to respond only to crises.

C. Planning for children requires flexibility and respect for individual needs: Who has the power to decide what is best for a child?

1. Decisions must be made taking all of child's needs into account. Often decisions are made hurriedly without proper evaluation of the problem.

2. Services available and/or offered may not be appropriate to the client.

3. Swings of the professional "pendulum" may pressure workers to choose one course of action over another at different times.

4. Workers who represent the power of the state may be (or may be seen as) unnecessarily coercive and authoritarian in their approach to clients or appear indifferent to parents' needs after the child's removal. This may alienate parents and make mutual decision-making difficult to achieve.

5. Roles of parents, foster parents, social workers, lawyers and judges in regard to decision-making and planning for a child may not be clearly spelled out.

III. Major legislative changes affecting child welfare policy

A. The federal Child Abuse and Neglect Treatment and Prevention Act, 1974 (P.L. 93-247)

1. This legislation, enacted in 1974, was a major step towards federal recognition of the problem of child abuse and neglect.

2. It provided federal funds to states to develop new services to upgrade their ability to prevent and treat child abuse and neglect.

3. The legislation also set up several regional resource centers to develop public awareness of child abuse and neglect and to train professionals to work in the area of prevention and protection of abused or neglected children.

B. Maine's Child and Family Services and Child Protection Act (22 M.R.S.A, § 1001-1071)

1. Enacted by the Maine legislature in 1979, the law recodified Maine's child welfare statutes.

2. The act is divided into eight (8) subchapters. Its major provisions are as follows:

a. Subchapter I: General Provisions

1) Defines important terms used in the act, including "abuse and neglect," "jeopardy" and "serious harm."

2) Recognizes "that the right to family integrity is limited by the right of children to be protected from abuse and neglect and... that uncertainty and instability are possible in extended foster home or institutional living."

b. Subchapter II: Reporting of Abuse and Neglect

1) Mandates that certain professionals (e.g., teachers, doctors, child care personnel, social workers, law enforcement officials) report suspected cases of child abuse or neglect to the Department.

2) Allows other individuals (e.g., neighbors, friends) to report if they choose to do so.

3) Provides for a method of reporting (by telephoning the Department).

4) Defines the information which the report should contain: age and sex of child, nature and extent of abuse or neglect, description of injuries.

c. Subchapter III: Investigations and Emergency Services

1) Allows the Department to issue subpeonas requiring people to disclose information.

2) Allows the Department to provide voluntary care if the child's parent or guardian agrees.

3) Allows the Department to provide short-term emergency services (up to 72 hours) for any child who is threatened with serious harm, a runaway, or without a responsible adult (abandoned). These services may include (but are not limited to) emergency shelter, medical treatment and counseling.

d. Subchapter IV: Protection Orders

1) Gives jurisdiction over matters of child protection to the District Court and provides the Probate Court with concurrent jurisdiction.

2) Enables the court to issue a Preliminary Protection Order and specifies:

- that, to do so, the court must find by a preponderance of the evidence that there is immediate risk of serious harm to the child;
- that the court may order one of several dispositions, including Department supervision of the child and family in the child's home, participation of child and/or parents in a treatment program, or removal of the child from the home with custody given to the Department or others;
- that the parents may request a hearing on the order, which must occur within 10 days of the request;
- that the Preliminary Protection Order lasts until dismissed by the court or until a Final Protection Order is enacted.

3) Enables the courts to issue a Final Protection Order and specifies:

- that a hearing is required and parents must be notified;
- that, at this hearing, the court must find by a preponderance of the evidence that the child is in jeopardy of his or her health or welfare;
- that the court may order one of the dispositions listed above;
- that the court must review the child's case at least once within 18 months of the order; and
- that the child's parents may request a more frequent review.

e. Subchapter V: Family Reunification

1) Specifies that the Department must provide or arrange services to facilitate family reunification. These include:

- notifying the parents in writing of the child's whereabouts and medical treatment;
- assuring visitation, unless detrimental to child; and

- periodically reviewing with parents the reasons for the child's removal, what must occur prior to child's return, and services available to facilitate that process.

2) Specifies that the Department can discontinue reunification services if:

- parents cannot be located, or
- parents refuse or do not make a good faith effort to rehabilitate.

f. Subchapter VI: Termination of Parental Rights

1) Provides that the custodian of a child may petition for termination of the parent's rights no less than 3 months after the Final Protection Order is in effect.

2) Gives the courts the power to terminate parental rights (i.e., divest the parent of all legal rights to the child) if:

- the parent consents in writing; or
- the court finds, after a hearing, that there is clear and convincing evidence that:

-- the parent is unwilling and unable to protect the child from jeopardy or has willfully abandoned the child or has refused to take responsibility for the child; and

-- these circumstances are unlikely to change in a reasonable period of time; and

-- termination is in the best interest of the child.

g. Subchapter VII: Care of Children in Custody

1) Enables the Department to reimburse the cost of care of children in its custody.

2) Defines "long term foster care" as a foster placement which is intended to continue until the child is 18.

3) Requires written long term care agreements and provides for participation of children over 14 in developing these agreements.

h. Subchapter VIII: Medical Treatment Order

1) Enables the court to order necessary medical treatment for a child in jeopardy.

C. The federal Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)

1. The legislation amends the Social Security Act of 1935 to improve social service programs, to strengthen federal support for foster care, and to provide federal support to encourage the adoption of children with special needs.

2. It is divided into 3 Titles, of which the first--"Foster Care and Adoption Assistance"--is particularly relevant to child welfare services.

3. Title I amends the Social Security Act of 1935 by adding a new section (IV-E) which provides for federal payments for foster care (formerly required under section IV-A) and adoption assistance.

a. The act specifies that to qualify for federal foster care and adoption assistance payments, a state must:

1) Review standards for foster families and child care institutions.

2) Arrange for an independent audit of its program every three years.

3) Annually set specific goals for the numbers of children in care over 24 months.

4) In each case, make a reasonable effort to prevent removal and to make it possible for the child to return home.

5) Develop a case plan for each child.

6) Implement a case review system.

b. To encourage the adoption of children with special needs, the act allows:

1) A monthly adoption assistance payment which may be equal to (but not exceed) the cost of maintaining the child in a foster family home.

2) Medical coverage under the Title XIX Medicaid program and eligibility for Title XX social services.

c. The Act amends section IV-B of the Social Security Act to provide

a financial incentive for states to provide services which support and supplement family care.

To qualify for these funds, a state must:

1) Conduct an inventory of all children in foster care for 6 months or more to determine the appropriateness of continuing placement.

2) Operate a statewide information system which meets federal requirements.

3) Develop a case review system to review the cases of children in care every 6 months.

4) Implement a service program designed to help children in care either to return to their families or to be placed in adoption.

5) Implement a program of preventive services aimed at helping children remain with their families.

IV. Natural parent interviews

Excerpts from taped interview with discussion of policy implications.

V. Recent developments in Maine's foster care program: a case study using Huttman's stages of policy-making.

A. Concern over unmet needs, social problems or gaps in services

1. Symptoms of unmet needs

a. During the 1970's many individual cases of troubled foster children came to light: foster children who were abused, who moved from home to home, who got pregnant, who were sent to the Maine Youth Center, etc.

b. Simultaneously, the number of children available for adoptive placement decreased: more unwed mothers chose to keep their children; therefore, families seeking to adopt were forced to look to other states or countries.

2. Development of informal groups and a public outcry

a. Several national groups published reports on problems in the foster care system.

1) Who Knows? Who Cares? Forgotten Children in Foster Care - Report of the National Commission on Children in Need of Parents

2) Oregon Permanency Planning Dissemination Project

3) National standards for foster care programs--published by both the American Public Welfare Association and the Child Welfare League of America

4) Children Without Homes--Children's Defense Fund

b. In Maine a United Way subcommittee undertook a study of child welfare services, resulting in the publication of Children and Families At-Risk in Cumberland County (1976).

3. Media spotlight and professional and academic interest in the problem

a. Both the University of Southern Maine and the Maine Department of Human Services applied for federal grants to study problems in the foster care program.

b. Locally, several child advocacy groups sponsored meetings and conferences to discuss problems and unmet needs.

B. Development of formal, structured groups (both lay and government sponsored)

a. Both the Department of Human Services and the University of Southern Maine received grants from the Administration of Children, Youth and Families to study the foster care problem.

b. University staff met with Department staff to develop a plan for integrating their efforts into a single, comprehensive study.

c. In October, 1979, Governor Joseph E. Brennan issued an Executive Order convening the Governor's Task Force on Foster Care, a group composed of both lay people and public officials. Its mandate was to study the foster care program and to make recommendations for changes.

C. Structured information gathering on the scope and characteristics of the problem.

1. Collection of data through systematic research

a. The University conducted an extensive study of all major components of the foster care program: foster children, placement resources, Department staff and judges.

b. The Task Force conducted public hearings in several locations around the state.

c. Task Force subcommittees identified issues and studied appropriate laws, policies and materials from other states.

2. Development of exploratory theories

   a. Through its information gathering process, the Task Force developed several broad concerns--e.g., the Department was not providing permanent homes for children as quickly as possible; courts were not always acting in the best interests of children, services to prevent family break up were lacking; problems existed in the process of freeing children for adoption.

   b. To refine these, the Task Force underwent a values clarification process: through continued dialogue and structured exercises, the group defined its feelings about these broad issues; areas of agreement and disagreement were exposed.

   c. The group began to develop a consensus on more specific findings and possible solutions.

3. Communication of findings to various publics

   a. In May, 1980, the Task Force published its preliminary findings and distributed them statewide.

   b. The Task Force solicited comment on its findings both in writing and through another series of public hearings.

D. Development of general policy solutions and goals (Note: The Task Force developed recommendations in many areas; the remainder of this outline will focus on one area--foster care case review.)

1. Exploration of possible policy alternatives

   a. The Task Force identified children drifting in foster care without a permanent plan as one problem in the foster care program; public hearings and review of the literature pointed to case review--a method of systematically evaluating cases to see if children are moving as quickly as possible into permanent homes--as one solution.

   b. Data from other states revealed several options for case review systems:

      1) Internal case reviews: those conducted by people within the state agency. They may be either supervisory (involving the worker and his/her supervisor) or administrative (involving personnel who are not directly responsible for the case).

      2. External reviews: those conducted by individuals not associated with the foster care agency. They may be either citizens' reviews (conducted by trained volunteers) or judicial (conducted by the court or its appointed representatives).

2. Attention to workable possibilities within the social reality

   a. Requirements for supervisory review already existed in Department policy. Therefore, the Task Force's only recommendation in this area was for monitoring of implementation of existing policy.

   b. At the time of the Task Force study, the federal government was considering the Adoption Assistance and Child Welfare Act of 1980. The Task Force knew that this act, if passed, would mandate a semi-annual administrative review of all children in care 6 months or more. The Task Force made recommendations in this area reflecting the anticipated federal law.

   c. At the time of the Task Force Study, Maine had just adopted a statute mandating judicial review. Therefore, no recommendations were made in this area.

   d. Maine had no provision for citizens' review. The Task Force called for the creation of a Foster Care Citizens' Review Board, appointed by the Governor.

3. Consideration of support for or resistance to program

   a. Representatives of the Department expressed concern about being "over-reviewed." They made it clear that they would resist the effort to establish a separate citizens' review body. However, the Task Force chose to include the recommendation anyway.

   b. Passage of federal legislation made administrative review a requirement for the receipt of federal funds; therefore, support of this type of review became necessary under the law.

4. Consideration of both the manifest or unintended consequences

   a. In its report the Task Force listed several desired outcomes of the case review system: reducing the amount of time children spend in care, promoting permanent placements for children, reducing substitute care caseloads, reducing expenditures of foster care funds.

   b. It also considered several negative aspects: costs in terms of staff time and additional personnel, difficulty in developing a computerized tracking system, possible redundancy with judicial reviews and resistance from staff to "one more review."

5. Estimating the numerical size and characteristics of the population to be served

a. The Task Force defined the target population as all children in care 6 months or more.

b. Department staff helped develop projections on numbers of cases to review.

6. Assessment of the cost of alternative solutions

a. Department staff developed projections for the cost of both an administrative and citizens' review system.

b. These projections were included in the Task Force's report.

E. Lobbying for change by formal concerned organizations

a. The Task Force published its report in September, 1980. It was distributed to the Governor, members of the legislature, Department staff, foster parents, social services agencies and other interested citizens.

b. A press conference and media coverage accompanied its distribution.

c. Task Force members and staff appeared on radio and television shows; University staff wrote articles for newspapers and journals.

F. Formulation of an operational policy and laws

1. Setting up groups to put policy in to operation

a. The Department's Child and Family Services Planning Committee (consisting of key Central Office staff and Assistant Regional Directors) developed a draft 5-year plan. This plan prioritized Task Force recommendations into 3 categories by degree of urgency.

b. Those recommendations which were most urgent were incorporated into the Department's Child Welfare Service Plan for the coming 2-year period.

c. Workplans were developed for implementing each recommendation: large activities were assigned to staff members, broken down into tasks, and assigned completion dates.

2. Narrowing of strategies to a workable group

a. Administrative case review was given a high priority and assigned to one staff member.

b. A separate citizens' review board was given a low priority and not assigned.

3. Shaping policy into operational guidelines

a. A series of intra-departmental meetings were held to discuss regional needs and federal requirements for administrative case review.

b. A staff member drafted policy to reflect these needs and requirements.

c. Job analyses for a case review system coordinator and case review personnel were drafted.

4. Negotiating or compromising on provisions to reflect reactions from various groups.

a. In October, 1981, the Child Welfare Advisory Committee issued a follow-up to the Task Force report, calling for incorporation of citizens' into the administrative process.

b. Department staff were split on the issue: some were in favor because it would relieve the burden on regional staff; others feared confidentiality problems.

G. Enactment of program

1. Statement of agreed-upon final provisions of structure.

a. Policy and guidelines were drafted, commented upon, and revised twice; a final version was adopted in Spring, 1982.

b. A series of meetings with Regional Managers to finalize the structure of the program.

2. Set up of agency or structure to run program

a. An acting director was named in February, 1982.

b. Hiring of all staff was completed by Spring, 1982.

H. Implementation of program

1. Training was conducted for case reviewers and regional staff

2. Case review of foster care cases began in all 5 regions during Summer, 1982.

I. Evaluation of the program

1. An evaluation component was built into the case review system to evaluate both the functioning of the foster care program and the effectiveness of the review system.

2. First evaluation reports are anticipated by Summer, 1983.

3. The program will be revised to reflect findings of the evaluation report.

VI. Presentation of Task Force Data*

A. Characteristics of children in state custody

1. Age, sex, race

2. Length of time in care

3. Reasons for custody

4. Permanency objective

B. Characteristics of foster families

1. Marital status, employment status, income

2. History as foster parents

3. Willingness to care for children with special needs

C. Comparison of foster children and foster families available to care for them.

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*from Foster Care Survey Report, Human Services Development Institute (1980)

Questions for Discussion

1. What approaches can help to prevent child abuse and neglect? Whose responsibility is prevention?

2. What is the best way to protect children in jeopardy without infringing unduly on parents' rights?

3. New federal and state laws mandate social workers to work towards finding permanent homes for children in foster care. What are the benefits of permanency planning to children and families? Are there cases in which a "permanent" family may not be in the best interest of the child?

4. What options are there for an older child who can't return home and doesn't want to be adopted?

5. Should foster children who are adopted be allowed to maintain contact with their biological families?

6. When a child has been removed from home because of abuse or neglect, responsibility for planning and decision-making often becomes confused. What is the appropriate role of his or her natural parents? social worker? foster parents? lawyer? district court judge?

PART III: SUGGESTED READINGS

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